

STATE OF NEW HAMPSHIRE DEPARTMENT OF SAFETY



OFFICE OF THE STATE FIRE MARSHAL

POLICE AND FIRE SERVICES FIREWORKS ENFORCEMENT AND SAFETY GUIDE

SECOND EDITION

NEW HAMPSHIRE DEPARTMENT OF SAFETY

Richard M. Flynn
Commissioner

OFFICE OF THE STATE FIRE MARSHAL

The seal of the State of New Hampshire is centered in the background. It features a blue outer ring with the words "SEAL OF THE STATE OF NEW HAMPSHIRE" and "1776" at the bottom. Inside the ring is a shield with a ship (the USS Raleigh) on the stocks, with a rising sun in the background. The shield is surrounded by a laurel wreath.

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INTRODUCTION

This Fireworks Enforcement and Safety Guide is intended to be utilized as a reference tool for police and fire service personnel relative to the State of New Hampshire's Statutes and Regulations when dealing with fireworks, and contains safety information for both the consumer and emergency services first responder.

The statutes and regulations referenced herein are summaries and may not be described in complete detail. Please review all New Hampshire Statutes, Regulations, and Administrative Rules pertaining to fireworks in complete detail prior to conducting any enforcement activities.

**THIS GUIDE IS TO BE USED AS A REFERENCE
TOOL ONLY.**

CONTACT INFORMATION

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FIREWORKS DEFINITIONS

“Commissioner” – Means the Commissioner of the New Hampshire Department of Safety.

“Permissible Fireworks” – Means the items on the permissible fireworks list established pursuant to NH RSA 160 – C: 15, I, and the fireworks listed below, provided they meet all applicable federal rules, regulations, and standards.

- (a) Cone fountain, meaning a cardboard or heavy paper cone which contains up to 50 grams of pyrotechnic composition, and which produces the same effect as a cylindrical fountain. Any fountain that is designed to be hand held shall not be considered permissible.
- (b) Cylindrical fountain, meaning a cylindrical tube not exceeding 3/4 inch in inside diameter and containing up to 75 grams of pyrotechnic composition, which produces a shower of color and sparks upon ignition, and sometimes a whistling effect. Cylindrical fountains may contain a spike to be inserted in the ground (spike fountain), or a wooden or plastic base to be placed on the ground (base fountain). Any fountain that is designed to be hand held shall not be considered permissible.
- (c) Ground spinner, meaning a small spinning device containing up to 20 grams of pyrotechnic composition per driver with a maximum of 3 drivers, which is similar to wheels in design and effect when placed on the ground and ignited, and which produces a shower of sparks and color when spinning. Any ground spinner that is designed to lift off the ground or shoot upward shall not be considered permissible.
- (d) Wheel, meaning a pyrotechnic device that:
 - (1) Is attached to a post or tree by means of a nail or string;
 - (2) Contains up to 6 driver units (tubes not exceeding ½ inch inside diameter) containing up to 60 grams of pyrotechnic composition per driver unit; and
 - (3) Revolves, upon ignition, producing a shower of sparks and sometimes a whistle effect.

“Consumer Fireworks” – Means Consumer Fireworks as defined in 27 CFR section 55.11 and formerly known as Class C, Common Fireworks.

“Display” means the use, explosion, activation, ignition, discharge, firing or any other activity which is intended to cause or which causes a firework to do what it is manufactured to do.

“Display Fireworks” – Means Display Fireworks as defined in 27 CFR section 55.11 and formerly known as Class B, Special Fireworks.

“Fireworks” – Means fireworks as defined in 27 CFR section 55.11

“Retail” Means the sale to any consumer or person not engaged in the business of making sales of fireworks.

“Sale” or **“Sell”** Means to sell, give, or transfer to another, with or without consideration.

“Wholesale” means engaging in the business of making sales to any other person engaged in the business of making sales of fireworks. “Wholesale” shall not include any making of sales to consumers or persons not engaged in the business of making sales of fireworks. To constitute a wholesale sale a sale must be for a minimum amount of \$1,000. This minimum may be increased by the commissioner by rule adopted pursuant to RSA 541-A.

“Consumer Fireworks” – Any small firework device designed to produce visible effects by combustion and which must comply with the construction, chemical composition, and labeling regulations of the United States Consumer Product Safety Commission, as set forth in Title 16 CFR Parts 1500 and 1507. Some small devices designed to produce audible effects are included, such as whistling devices, ground devices, containing 50 mg or less of explosive materials, and aerial devices containing 130 mg or less of explosive material. Consumer Fireworks are classified as Fireworks UN0336, and UN0337 by the United States Department of Transportation at 49 CFR 172.101. This term does not include fused set pieces containing components, which together exceed 50 mg of salute powder.

“Display Fireworks” – Large fireworks designed primarily to produce visible or audible effects by combustion, deflagration, or detonation. This term includes, but is not limited to, salutes containing more than 2 grains (130 mg) of explosive materials, aerial shells containing more than 40 grams of pyrotechnic composition, and other display pieces which exceed the limits of explosive materials for classification as “consumer fireworks”. Display Fireworks are classified as fireworks UN0333, UN0334 or UN0335, by the United States Department of Transportation at 49 CFR 172.101. This term also includes Fused set pieces containing components, which together exceed 50 mg of salute powder.

“Pyrotechnic Special Effect” – A special effect created through the use of pyrotechnic materials and devices.

“Pyrotechnic Operator” – The person actually in charge of creating the pyrotechnic special effects.

“Pyrotechnic Material” – A chemical mixture used in the entertainment industry to produce visible or audible effects by combustion, deflagration, or detonation. Such chemical mixtures predominately consist of solids capable of producing a controlled, self-sustaining, and self-contained exothermic chemical reaction that results in heat, gas, sound, light or a combination of these effects. The chemical reaction functions without external oxygen.

**PERMISSIBLE FIREWORKS
TITLE XII PUBLIC SAFETY AND WELFARE
CHAPTER 160-C**

SUMMARY

160-C:2 Sale of Permissible Fireworks, Penalty.

- ~ Shall have a federal permit to sell display fireworks issued in accordance with Title 18 of the United States Code.
- ~ Shall have a local permit to sell permissible fireworks.
- ~ Shall have a state license to sell permissible fireworks.
- ~ Shall not sell fireworks to anyone that is under 21 years of age, or appears to be under the influence of drugs or alcohol.

160-C:3 Requirements for the sale of Permissible Fireworks.

- ~ Any person who desires to sell permissible fireworks shall apply to the municipality in which the permissible fireworks are to be sold. Such application shall be on a form prescribed by the commissioner.
- ~ No permit to sell permissible fireworks shall be issued by a governing body without prior approval of the police chief, fire chief, and building inspector.
- ~ Any municipality may charge a fee for the permit or application.
- ~ Once a municipal permit to sell permissible fireworks is obtained, the person shall apply for a state license to sell permissible fireworks. Such application shall be on a form prescribed by the commissioner.
- ~ Businesses shall be located in a permanent structure.
- ~ The structure shall meet all applicable fire safety, building codes, zoning codes, and any local ordinance requirements.
- ~ No license shall be issued to a person that:
 - 1) Has been convicted of an offense involving fireworks or explosives within two (2) years prior to the application.
 - 2) Has been found to have violated any fireworks or explosive laws, rules, or regulations within two (2) years prior to the application.
 - 3) Has been found to be under 21 years of age.
- ~ Prior to the issuance of any license, the department of safety may conduct an inspection of the site, including all buildings, at which permissible fireworks are to be sold or stored.
- ~ No person under the age of 21 shall be engaged in the business of handling or selling any permissible fireworks; provided, however, that a person less than 21 years of age but at least 18 years of age may handle and sell permissible fireworks at a licensed sales location if he or she is under the direct supervision of a person 21 years of age or older.
- ~ No licensee shall employ a person to handle or sell fireworks who has been convicted of any offense involving fireworks or explosives within the past two (2) years or who has been found to have violated any fireworks or explosives laws, rules, or regulations within the past two(2) years.

160-C: 11 Possession and display of Permissible Fireworks.

- ~ Any person 21 years of age or older may possess permissible fireworks except in a municipality which has voted to prohibit possession.
- ~ Any person 21 years of age or older may display permissible fireworks on private property with the written consent of the owner, or in the owner's presence, except in a municipality which has voted to prohibit display.

UNREGULATED NOVELTY FIREWORKS

Pursuant to NH RSA 160 – B and 160 - C retail stores that do not possess a license to sell New Hampshire approved permissible fireworks are only allowed to sell the following unregulated consumer firework devices that are classified as novelties:



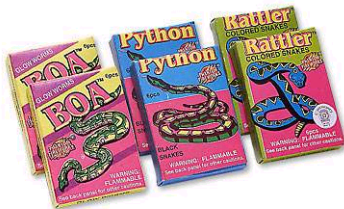
SPARKLERS: A wire or stick that is coated with a pyrotechnic composition, that cannot exceed 3.5 oz per item. Pursuant to NH RSA 160 – B: 16, sparklers shall not contain any chlorates or perchlorates.



PARTY POPPERS: A small plastic or paper item containing not more than 0.25 grains (16 mg) of explosive composition that is friction sensitive. A string protruding from the device is usually pulled to ignite it. This item expels non-flammable paper streamers or other non-flammable novelties, or both, and produces a small report.



SNAPPERS: A small, paper wrapped item containing not more than 0.02 grains (1 mg) of explosive composition coated on small bits of sand, and packaged with sawdust in individual containers of not more than 50 units. When dropped, the device explodes, producing a small report.



SNAKES: A pressed pellet of not more than 0.07 oz (2g) of pyrotechnic composition and packaged in retail packages of not more than 25 units that produces as the primary effect a snake-like ash upon burning. The ash expands in length as the pellet burns.

NON-PERMISSIBLE FIREWORKS



Firecrackers, Missiles, Bottle rockets, Smoke Bombs / Balls and salutes are examples of New Hampshire Non-Permissible Fireworks.

APPROVED PERMISSIBLE FIREWORKS



Those consumer fireworks approved by the commissioner pursuant to RSA 160 – C: 15

CONSUMER SAFETY TIPS FOR PERMISSIBLE FIREWORKS

1. Follow your local and state laws regarding the display and possession of fireworks. Make certain to read and follow all directions, caution labels and warnings labels on each individual firework device.
2. Never allow children to handle, play with and/or light any type of fireworks.
3. Do not consume alcohol while handling fireworks.
4. Always display fireworks in a clear, open area free of overhead objects. Always provide for a safe distance between buildings and any viewing audience.
5. Always light fireworks on a hard, flat and level surface to insure stability of the device.
6. Never extend any part of your body over the top of any device.
7. Always ignite one device at a time.
8. Never attempt to re-ignite, alter or fix any fireworks device that has failed to fire.
9. Always have a form of fire suppression nearby. (fire extinguisher, hose or bucket of water)
10. Be cautious of igniting aerial devices during high wind conditions.
11. Never aim, point, throw or shoot fireworks at another person.
12. Always store fireworks in a cool, dry place and dispose of properly.

Types of safety equipment



Safety Glasses



Gloves



Water Bucket



Fire Extinguisher



Lighting Punk



Safety Fuse

**PERMISSIBLE FIREWORKS
TITLE XII PUBLIC SAFETY AND WELFARE
CHAPTER 160-C**

Sale of Permissible Fireworks; Penalty
160 – C: 2

- I. No person shall sell fireworks other than a person that meets all of the following requirements.
 - (a) Has a federal permit to sell display fireworks issued in accordance Title 18 of the United States Code.
 - (b) Has a state license to sell permissible fireworks issued pursuant to RSA 160 – C: 3.
 - (c) Has a local permit to sell permissible fireworks issued pursuant to RSA 160 – C: 3.
- II. No person shall sell permissible fireworks:
 - (a) To any person less than 21 years of age.
 - (b) To any person who appears to be under the influence of alcohol or drugs.
- III. Any person who violates the provisions of this section shall be guilty of a misdemeanor.

Requirements for Sale of Permissible Fireworks.
160 – C: 3

- I. Any person who desires to sell permissible fireworks shall apply to the municipality in which the permissible fireworks are to be sold. Such application shall be in a form prescribed by the commissioner. The licensing board of any municipality or, if one does not exist, the governing body may issue a permit to sell permissible fireworks to a person who applies, provided that the person has a valid permit for the sale of fireworks issued pursuant to Title 18 of the United States Code. No permit to sell permissible fireworks shall be issued by any governing body without the prior approval of the police chief, fire chief, and building inspector, if any, of the municipality. The municipality may charge a fee for the permit or application for permit under this section.
- III. The state license may be issued to an applicant who, at the time such license is issued, possesses a permit issued in accordance with the provisions of Title 18, United States Code, governing fireworks, and a permit issued pursuant to RSA 160-C: 3, I. No license shall be issued for the sale of permissible fireworks unless the applicant establishes that it will locate its business in a permanent structure which meets all applicable fire safety codes, building codes, zoning codes, and the requirements of local ordinances. No license for the sale of permissible fireworks shall be issued to any person who has been convicted of any offense involving fireworks or explosives within the 2 years prior to the application or who has been

found to have violated any fireworks or explosive laws, rules, or regulations within the 2 years prior to the application. No license shall be issued to any person under 21 years of age.

- IV. Buildings used for the sale of permissible fireworks shall be dedicated solely to the sale and storage of permissible fireworks and items relating to the sale and promotion of fireworks provided for in the rules adopted by the commissioner pursuant to RSA 541-A and shall comply with the applicable requirements of the state fire code adopted pursuant to RSA 153:5.
- VII. The fee for a license for each location shall be \$1,500 per year, payable annually to the department of safety for deposit into the general fund.
- VIII. No person under the age of 21 shall be engaged in the business of handling or selling any permissible fireworks; provided, however, that a person less than 21 years of age, but at least 18 years of age may handle and sell permissible fireworks at a licensed sales location if he or she is under the direct supervision of a person 21 years of age or older.

Rulemaking
160-C: 4

The commissioner shall adopt rules pursuant to RSA 541-A relative to:

- I. The procedure and reasons for denying, suspending, or revoking an application or a license issued pursuant to RSA 160-C: 3.
- II. Insurance, bonding, or other evidence of financial responsibility to be required of any person licensed under this chapter.
- III. Forms for applications and local permits to sell permissible fireworks.
- IV. Forms for applications and state licenses to sell permissible fireworks.
- V. Requirements for the safe use, handling, and storage of permissible fireworks.

Enforcement
160 – C: 5

Upon application, the superior court or district court is authorized to permit the law enforcement officials or certified fire citation officers of the state, counties, or any city or town to seize, remove, or cause to be removed at the expense of the owner, all stocks of permissible fireworks offered or exposed for sale, stored, or held in violation of this chapter. Nothing in this section shall be construed to restrict or limit any other authority granted by law to law enforcement officials or certified fire citation officers.

Local Option
160 – C: 6

Any municipality in the state, by action of its local legislative body or local governing body, may vote to allow or to prohibit, within that municipality, the issuance of permits

or licenses to sell permissible fireworks or the display or possession of permissible fireworks. If the municipality has voted to prohibit the issuance of permits or licenses or the display or possession of permissible fireworks prior to the effective date of this section, such decision shall remain in effect unless subsequent action is taken under this section.

Civil Liability
160 – C: 7

In addition to any other penalties imposed under this chapter, any person who violates the provisions of this chapter shall be liable, in any civil action, to any person for damages resulting from the illegal sale or use of permissible fireworks, and neither assumption of risk nor contributory negligence shall be a defense for such violator.

Immediate Suspension Authority
160 – C: 8

Notwithstanding any other provision of law to the contrary, the commissioner may immediately suspend a license issued pursuant to RSA 160 – C: 3 if the commissioner has evidence that the licensee is selling fireworks contrary to any of the provisions of RSA 160 – C or any rules adopted under this chapter. Any person whose license is suspended pursuant to this section shall be given the opportunity for a hearing within 10 days of the suspension. Any person found to be selling permissible fireworks after the person's license has been suspended pursuant to this section shall not have the license reinstated for a minimum of one year from the date of suspension.

Advertising
160 – C: 9

- I. No person shall advertise permissible fireworks by means of radio, television, newspaper, flyer, catalog, billboard, mobile or stationary sign, or any other means in such a way as to confuse or mislead the public about:
 - (a) The conditions under which fireworks may be purchased.
 - (b) The conditions under which fireworks may be used.
 - (c) The requirements contained in RSA 160 – B, 160 – C, or any other provision of state or federal law or regulation.
- II. Any person who violates the provisions of this section shall be guilty of a misdemeanor.
- III. Any advertisement for the sale of permissible fireworks shall at a minimum contain the words: **“Check with your local fire department to see if permissible fireworks are allowed in your community.”**

Sales of Permissible Fireworks Allowed; Penalty
160 – C: 10

- I. Any person who sells permissible fireworks shall post in a conspicuous place on the sales premises a list, prepared by the commissioner, of all municipalities in the state where the display or possession of permissible fireworks is prohibited.
- II. Any person who sells permissible fireworks shall post in a conspicuous place on the sales premises a list of all permissible fireworks that are authorized for retail sale.
- IV. Any person who sells permissible fireworks shall post, in a prominent place within the public area of the store, a list of appropriate United States Department of Transportation EX numbers of each item on the premises.
- V. Any person who violates the provisions of this section shall be guilty of a violation if a natural person, or guilty of a class B misdemeanor if any other person.

Possession and Display of Permissible Fireworks; Penalty
160 – C: 11

- I. Notwithstanding RSA 160 – B: 4, a person who is 21 years of age or older may possess permissible fireworks except in a municipality which has voted to prohibit possession pursuant to RSA 160 – C:6. A person who is 21 years of age or older may display permissible fireworks on private property with the written consent of the owner or in the owner's presence, except in a municipality which has voted to prohibit display of permissible fireworks pursuant to RSA 160 – C:6.
- II. Any person who violates the provisions of this section shall be guilty of a violation if a natural person, or guilty of a class B misdemeanor if any other person.

Distribution of Pamphlet Required
160 – C: 12

Any person engaged in selling permissible fireworks shall provide to the purchaser a pamphlet, approved by the commissioner, detailing the appropriate and safe use of permissible fireworks being sold.

Permissible Fireworks Review Committee
160 – C: 13

- I. There is hereby established a permissible fireworks review committee. The composition of this committee shall be as follows: one senator, and an alternate who shall be a senator, appointed by the senate president; 2 representatives, one of whom shall be a member of the house committee having

jurisdiction over public safety, appointed by the speaker of the house; the director of the division of state police, or designee; the state fire marshal, or designee; 2 members representing the permissible fireworks industry, who shall be associated with the retailing of permissible fireworks, appointed by the governor; and 2 members, one of whom shall be an alternate, representing the New Hampshire Association of Fire Chiefs, appointed by the governor. No vote of the committee shall take place unless 5 members of the committee are present. The term of office of each member appointed by the governor shall be 2 years and until a successor is appointed and qualified. The other members of the committee shall serve terms coterminous with their terms in office.

Transportation
160-C: 14

It shall not be unlawful for a person who has legally purchased permissible fireworks to transport them from the point of purchase to a municipality that has not prohibited the possession of permissible fireworks pursuant to RSA 160-C: 6.

Permissible Fireworks List
160-C: 15

- I. Within 30 days of receiving the recommendation of the permissible fireworks review committee, the commissioner shall determine whether an item should be classified as a permissible firework under this chapter. The commissioner shall establish a list of items that have been classified as permissible fireworks.
- II. Upon the recommendation of the permissible fireworks review committee, the commissioner shall determine whether an item shall be removed from the list of items that have been classified as permissible fireworks.

Emergency Removal from Retail Sale of Permissible Fireworks
160-C: 16

- I. The commissioner may, upon the recommendation of the state fire marshal or the director of state police, prohibit the sale of any permissible fireworks that impose imminent threat to life and property.

Permissible Fireworks Inspector
160-C: 17

There is hereby established in the office of the state fire marshal the seasonal position of permissible fireworks inspector. The permissible fireworks inspector shall:

- I. Inspect permissible fireworks sales outlets.
- II. Coordinate meetings of the permissible fireworks review committee.
- III. Coordinate revisions to the list of permissible fireworks.
- IV. Develop an informational booklet on fireworks to be issued to police and fire agencies throughout the state.

FIREWORKS
TITLE XII PUBLIC SAFETY AND WELFARE
CHAPTER 160-B

Sale; Penalty
160-B: 2

- I. No person shall sell fireworks other than a person who meets all of the following requirements:
 - (a) Has a federal permit to sell fireworks issued in accordance with title 18 of the United States Code.
 - (b) Has a state license to sell display fireworks and consumer fireworks issued pursuant to RSA 160-B: 6.
 - (c) Has a local permit to sell display and consumer fireworks issued pursuant to RSA 160-B: 6.
- II. No person shall sell fireworks other than either:
 - (a) To a person who presents a certificate of competency issued pursuant to RSA 160-B: 7 and RSA 158:9-f and leaves a copy of such certificate and who presents a permit to display issued pursuant to RSA 160-B: 7 and leaves a copy of such permit; or
 - (b) To a person who possesses and shows a license for the storage of class B fireworks issued pursuant to RSA 158:9-f; or
 - (c) At wholesale to a person engaged in the sale of fireworks meeting all the specifications in RSA 160-B: 6, VII.
- III. Any person who violates the provisions of this section shall be guilty of a misdemeanor.

Display; Penalty
160-B: 3

- I. No person shall display fireworks other than a person who meets all of the following requirements:
 - (a) Has obtained a certificate of competency issued pursuant to RSA 158:9-f which shall be in such a person's possession at the time of display and which has not been revoked or suspended.
 - (b) Has obtained a municipal permit to display issued pursuant to RSA 160-B: 7, which shall be in such a person's possession and which has not been revoked or suspended.
- II. Any person who violates the provisions of this section by displaying display fireworks shall be guilty of a misdemeanor.

- III. Any person who violates the provisions of this section by displaying consumer fireworks shall be guilty of a violation for the first offense and a misdemeanor for any subsequent offense.

Possession; Penalty
160-B: 4

- I. No person shall possess fireworks other than the following:
- (a) A person who has in the person's possession a certificate of competency issued pursuant to RSA 158:9-f and a valid permit to display issued pursuant to RSA 160-B: 7
 - (b) A person who has a federal permit to sell display fireworks issued in accordance with title 18 of the United States Code, a state license issued pursuant to RSA 160-B: 6 and a municipal permit issued in accordance with RSA 160-B: 6, or an employee of such a person. For the purposes of this subparagraph, "employee" shall be limited to a person who is reported as an employee for state and federal tax purposes and for unemployment compensation purposes.
 - (c) A common carrier, which is in possession of a bill of lading indicating that fireworks are being shipped to or from a licensed and permitted seller or a person who, has a certificate of competency and permit to display.
 - (d) Any manufacturer or common carrier shipping fireworks in interstate commerce through the state of New Hampshire which are not being delivered or received in this state.
 - (e) A person who has a licensed facility for the storage of display fireworks pursuant to RSA 158:9-c.
- II. Any person who violates the provisions of this section shall be guilty of a violation unless the person possesses with the intent to sell, in which case such person shall be guilty of a misdemeanor.

Issuance of Permit; Penalty.
160-B: 5

- I. No person shall issue a permit or license to display fireworks contrary to this chapter.
- II. Any person who violates the provisions of this section shall be guilty of a misdemeanor.

Requirements for Sale of Fireworks
160-B: 6

- I. Any person who desires to sell display fireworks and consumer fireworks as limited by RSA 160-B: 2 may apply to the municipality in which such person desires to sell fireworks. Such application shall be in a form prescribed by the

commissioner. The licensing board of any municipality or, if one does not exist, the governing body may issue a permit to sell display and consumer fireworks to a person who applies, provided that the person has a valid permit for the sale of fireworks issued pursuant to title 18 of the United States Code. No permit to sell fireworks shall be issued by the governing body without prior approval of the police chief and fire chief, if any, of the municipality. The municipality may charge a fee for the permit or application for permit under this section.

- II. After the person has obtained a municipal permit to sell display and consumer fireworks, such person may apply for a state license to sell display and consumer fireworks. Upon application of any person, the commissioner, or a person designated by the commissioner, may issue a license authorizing the applicant to sell or market display and consumer fireworks in this state for not more than one year from the date of issue, provided the person has first obtained a permit to sell display and consumer fireworks pursuant to RSA 160-B: 6, I. The license shall bear the name, address, description, and signature of the licensee. The license shall be displayed at all times, openly and publicly, at the licensee's place of business. The license shall be issued within a reasonable time after application.
- III. The state license may be issued to an applicant who, at the time such license is issued, possesses a permit issued in accordance with the provisions of title 18, United States Code, governing fireworks, and a permit issued pursuant to RSA 160-B: 6, I. No License shall be issued for the sale of display and consumer fireworks unless the applicant establishes that it will locate its business in a permanent structure which meets all applicable fire safety codes, building codes, zoning codes, and the requirements of local ordinances. No license for the sale of display and consumer fireworks shall be issued to or held by any person who has been convicted of a felony if the felony has not been annulled by a court of record. No license shall be issued to any person under 21 years of age.
 - III-a. Buildings used for the sale or storage of display and consumer fireworks shall be dedicated solely to the sale or storage of display and consumer fireworks and items relating to the sale and promotion of fireworks provided for in the rules adopted by the commissioner pursuant to RSA 541-A and shall comply with the applicable requirements of the state fire code adopted pursuant to RSA 153:5.
 - III-b. Prior to the issuance of a state license, the department of safety may conduct a background investigation of the applicant and may conduct an inspection of the site, including all buildings, in which the display and consumer fireworks are to be sold or stored.
- IV. If the application for a state license is denied, the reasons for such denial shall be stated in writing, in duplicate, the original of which shall be delivered to the applicant, and the copy thereof kept in the office of the department of safety.

- V. The fee for a license for each location shall be \$1,500 per year, payable annually to the department of safety for deposit into the general fund.
- VI. A person who has a federal permit issued in accordance with the provisions of title 18, United States Code, governing fireworks, a state license issued pursuant to this section, and a local permit issued pursuant to this section may sell display and consumer fireworks; however, such a person shall only sell display fireworks to a person who shows a certificate of competency issued pursuant to RSA 158:9-f, or who shows a license for the storage of display fireworks issued pursuant to RSA 158:9-c, or a license to sell display and consumer fireworks pursuant to this chapter. Any sale which the seller makes shall be recorded, and the record, at a minimum, shall contain a copy of the purchaser's certificate of competency and display permit and, in the case of a wholesale, the purchaser's retail number from the state of residence, IRS tax identification number or such other information as the commissioner shall specify by rule adopted pursuant to RSA 541-A.
- VII. A wholesale sale shall not be made to a person or corporation which resides in New Hampshire other than to a person or corporation licensed to sell fireworks pursuant to paragraphs I-III of this section. Any wholesale shall be shipped by common carrier or by the wholesaler making the sale. For the purposes of this shipment the wholesaler shall not be authorized to make any person an agent for the limited purpose of transporting fireworks.
- VIII. The only retail sale allowed shall be a sale to a person who possesses a certificate of competency and a display permit and leaves a copy of such certificate and display permit with the seller.
- IX. No person under the age of 21 shall be engaged in the business of handling or selling any display or consumer fireworks; provided, however, that a person less than 21 years of age but at least 18 years of age may handle and sell display or consumer fireworks at a licensed sales or storage location or may handle display or consumer fireworks at a permitted display site if he or she is under the direct supervision of a person 21 years of age or older.
- X. Any person who knowingly provides false information to the department of safety on an application for the sale of fireworks as provided in this section shall be guilty of a class A misdemeanor.

Requirements for Display of Fireworks
160-B: 7

- I. The commissioner may issue a certificate of competency to display fireworks as provided in RSA 158:9-f to a person who meets the requirements established under this section.
- II. Any municipality, fair association, amusement park or other organization may

apply for a permit to display fireworks and shall include in the application the name of a person who has been issued a certificate of competency who shall be responsible for conducting the display and a copy of that individual's certificate.

- III. The chief of police, licensing board, or governing body of the municipality, after an inspection has been conducted by the fire chief, may issue a permit to display fireworks. The permit shall specify the date on which the display is to be conducted and any other conditions that may be imposed.
- IV. The display shall be of such a character, and so located and displayed, as in the opinion of the chief of the fire department or fireward, after proper inspection, that it shall not be hazardous to property or endanger any person.
- V. An application for a display permit shall be made in writing at least 15 days in advance of the date of display. The town, city, or village district may charge a reasonable fee for a permit to display fireworks. No display permit granted under this section shall be transferable, and each display permit shall be valid for only one display to be held on the date permitted. If, in the opinion of the chief of the fire department, conditions deteriorate during the 15 days before the date for which such permit is granted so that a fire hazard exists, the chief may revoke the permit.

Rulemaking
160-B: 8

The commissioner shall adopt rules pursuant to RSA 541-A relative to:

- I. The procedure and reasons for suspending or revoking a license issued pursuant to RSA 160-B: 6.
- II. Increasing the amount of sale necessary to constitute a wholesale sale, to account for inflation or other economic factors.
- III. Expanding the definition of fireworks to cover any other devices used for the purpose of producing a visible or an audible effect by combustion, deflagration, or detonation which are not covered by federal regulations governing display and consumer fireworks but which are deemed by the commissioner to constitute a threat to public safety.
- IV. Insurance, bonding, or other evidence of financial responsibility to be required of any person licensed under this chapter.
- V. Forms for application and local permits to sell fireworks and forms for applications and local permits to display fireworks.

Enforcement
160-B: 9

Upon application, the superior court or district court is authorized to permit law enforcement officials or certified fire citation officers of the state, counties, or any city or town to seize, take, remove, or cause to be removed at the expense of the owner all stocks

of fireworks offered or exposed for sale, stored or held in violation of this chapter. Nothing in this section shall be construed to restrict or limit any other authority granted by law to law enforcement officials or certified fire citation officers.

Civil Liability
160-B: 11

In addition to any other penalties imposed under this chapter, any person who violates the provisions of this chapter shall be liable, in any civil action, to any person for the damages resulting from the illegal sale or use of fireworks, and neither assumption of risk nor contributory negligence shall be a defense for such violator.

Exceptions
160-B: 12

The commissioner may issue permits granting exceptions to the provisions of this chapter to persons who intend to use fireworks for agricultural, railroad, or military purposes, provided that the type of fireworks to be used are designed in such a way as to accomplish the purpose for which the permit is sought and provided that the person who applies for the exception has first received approval by the appropriate local official.

Appeal
160-B: 13

Any person aggrieved by a decision of the commissioner pursuant to this chapter may appeal pursuant to RSA 541.

Certain Sparklers Prohibited; Penalties
160-B: 16

- I. Notwithstanding any law to the contrary, the sale, possession or display of class “C” sparklers or those consisting of a wire or stick which contain chlorates or perchlorates is prohibited.
- II. Any person who sells or possesses with intent to sell class “C” sparklers or sparklers consisting of a wire or stick which contain chlorates or perchlorates shall be guilty of a misdemeanor.
- III. Any person who displays or possesses without intent to sell class “C” sparklers or sparklers consisting of a wire or stick which contain chlorates or perchlorates shall be guilty of a violation.

Retail Sale of Reloadable Aerial Shells Prohibited; Penalty
160-B: 16-a

The retail sale of reloadable aerial shells is prohibited. In this section, "reloadable aerial shell" means a consumer (formerly class C common) firework device that is individually fused and designed to be inserted by the consumer into a tube prior to firing. Any person who violates the provisions of this section shall be guilty of a misdemeanor.



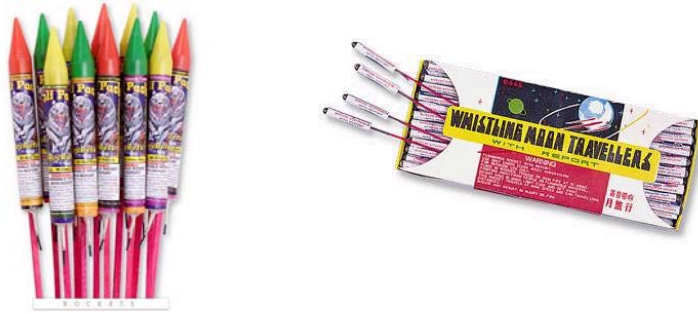
Retail Sale of Firecrackers Prohibited; Penalty.
160-B:16-b

The retail sale of firecrackers is prohibited. In this section, "firecracker" means a ground device firecracker as defined by the American Pyrotechnics Association in APA Standard 87-1 (2001) 3.1.3.1, as amended. Any person who violates the provisions of this section shall be guilty of a misdemeanor



Retail Sale of Bottle Rockets Prohibited; Penalty.
160-B:16-c

The retail sale of bottle rockets is prohibited. In this section, "bottle rocket" means a bottle rocket as defined by the American Pyrotechnics Association in APA Standard 87-1 (2001) 3.1.2.1, as amended. Any person who violates the provisions of this section shall be guilty of a misdemeanor.



Emergency Removal From Sale or Use of Unsafe Devices
160-B: 19-a

- I. The commissioner may, upon the recommendation of the state fire marshal or the director of state police, prohibit the sale or use of any display or consumer fireworks that impose an imminent threat to life and property.
- II. Upon notification by the commissioner or designee that a display or consumer firework is prohibited for sale or use, a person licensed to sell display or consumer fireworks shall remove the item from the sales area and shall not sell the item to any person.
- III. Any person who sells a display or consumer firework after being notified by the commissioner or designee that an item is prohibited for sale or use shall be guilty of a class A misdemeanor for the first offense and a class B felony for the second offense. In addition, the commissioner may revoke the violator's license for a minimum period of 30 consecutive days.
- IV. Any person who uses a display or consumer firework after being notified by the commissioner or designee, or by a law enforcement officer or fire official that the item is prohibited for sale or use shall be guilty of a class A misdemeanor for the first offense and a class B felony for the second offense. In addition, the commissioner may revoke the violator's certificate of competency for a minimum period of 30 consecutive days.
- V. Any license holder or certificate holder aggrieved by the action of the commissioner pursuant to this section may appeal pursuant to RSA 541.

**FIREWORKS DISPLAY INSPECTION CHECK LIST FOR DISPLAY
FIREWORKS
UPDATED 05-04-99 DIVISION OF STATE POLICE
SAF-C 5017**

- Date of inspection
- Date of fireworks display
- Location of fireworks display
- Full name of operator and competency number
- Names of all assistants
- Display is at least 50 feet from the nearest above ground electrical, telephone or telegraph line, tree or overhead obstruction.

- At least 200 feet from the nearest public highway, railroad or other means of travel unless closed to travel during the display.

- At least 200 feet from the nearest building.

- At least 250 feet from the nearest tent or canvas shelter.

- At least 500 feet from the nearest hospital, penal facility or other health care or detention center.

- The audience shall be restrained behind lines that are at least 200 feet from the point where the fireworks are discharged. If shells of 10 inches or larger are used, the audience must be at least 300 feet from the point of discharge.

- Only persons in charge of the display shall be inside the restraining lines. Restraining lines erected with fencing or rope shall clearly define the discharge area.

- Operator to determine the area in which the display is to be discharged is safe and rules are complied with.

- The head of the Fire Department, Police Department, or the Director of State Police or his designee shall order the postponement of the display for any violation of these rules until the violation(s) have been corrected.

- Upon delivery to the display site, the Class B special fireworks shall not be left unattended nor shall they be allowed to become wet.

- The shell storage area shall be located at a distance of not less than 25 feet from the discharge site.

- Potential landing area is large, clear, and open area.
- No spectators, vehicles or any readily combustible materials within the potential landing area, (for the purpose of this section, “landing area” means the area over which fireworks shells are fired).
- At all times there shall be at least one operator and one assistant (who is at least 18 years of age) on duty during the display.
- No smoking or open flames in the shell storage area when shells are present.
- No handling, transport or display of class B fireworks while under the influence of or consumption within the previous 4 hours of alcohol or controlled substances.
- Operator shall do a thorough search of the display area for un-ignited fireworks or remnants thereof containing explosives. The search is to be done at the end of the display and at first available daylight following the display.

At the completion of the search, the operator shall report all findings to the head of the fire department in the municipality where the display was held.

- Sponsor of the display shall arrange for the presence of one or more members of the fire department, as may be required by the head of the department. They shall be on duty from the time the fireworks are delivered at the site, until the termination of the display and the removal of all fireworks and debris from the site.

The head of the fire department shall designate such fire extinguishing equipment as may be required at the display site, from the time the fireworks are delivered at the site, until the termination of the display and removal of all fireworks and debris from the site. The fire department shall designate the location of the fire extinguishing equipment.

- The local fire, police chief or the Director of State Police shall cancel the display when the behavior or condition of the operator or assistant is such as to imperil the public safety.

CERTIFICATES OF COMPETENCY FOR THE DISPLAY OF DISPLAY FIREWORKS

Saf-C 5003

Saf-C 5003.01 Certificate Required:

No display of display fireworks shall be conducted unless at least one person with a current certificate of competency for the display of display fireworks is physically present at all times during the setting up, loading and firing of the display. The person with a current certificate of competency shall oversee and assure that the display is being conducted in a safe and secure manner.

Saf-C 5003.02 Certificates of Competency:

- (a) The director, upon application of any natural person, shall issue a certificate of competency to such a person to conduct display fireworks displays if the director determines that the applicant is qualified in the safe use of display fireworks, as provided in Saf-C 5003.03
- (b) Certificates of competency for the display of display fireworks shall be valid for 4 years from the date of issue unless suspended or revoked by the director.
- (c) Certificates of competency for conducting blasting operations issued under RSA 158:9-f and Saf-C 1604 shall not be valid for the display of display fireworks.
- (d) No certificate of competency shall be assigned or transferred.

Saf-C 5003.03 Qualifications:

- (a) An applicant for a certificate of competency shall meet the following requirements:
 - (1) Compliance with the application procedures set forth in Saf-C 5003.04; and
 - (2) Pass a written competency test administered by the director.
 - (b) If an applicant cannot read or write, the written competency test shall be administered orally by the director or his/her designee.
 - (c) The competency test cited in (a)(2) above, shall test the person's knowledge of the rules and the general procedures for the display of display fireworks.
- For the purposes of (a)(2) above, an applicant shall receive 8 or less wrong answers in order to pass the test.

ILLEGALLY MANUFACTURED EXPLOSIVE DEVICES

Illegally manufactured explosive devices are frequently referred to as fireworks because of their resemblance to a large firecracker. These items are commonly known as M-80's, M-100's, M-250's, M-500's, Cherry Bombs, Quarter Sticks, and Blockbusters. These devices and others of like construction are federally banned explosive devices, and never should be referred to as fireworks.

Cherry Bombs: Commonly red in color with a green fuse, and approximately 1 inch in diameter.

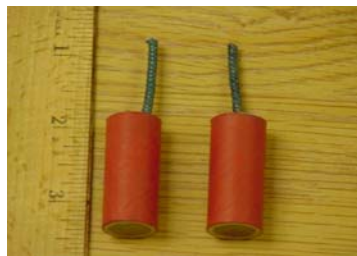
Silver Salute: The tube is commonly silver in color with a green fuse, and approximately 1 ½ inches long with a 9/16 inch diameter.

M-80's: These devices are commonly red or brown in color with an average size of 1 ½" long with a 5/8 inch diameter with an average explosive composition of .12 oz. detonation could cause injury to fingers, hands, eyes and face.

M-100 (Silver Salute): Average size of 2 ½" long with a 1" diameter. The average explosive composition is .33 oz. Detonation can cause severe injury to the hands, arms, face, and body.

M-250: The average size is 3 inches long with a 1 inch diameter. The average explosive composition is .48 oz. Detonation can cause crippling/disfiguring injuries, or even death.

M-1000 (Quarter Stick): The average size is 6 inches long with a 1" diameter. The average explosive composition is .97 oz. Detonation can cause extremely severe injuries to the body, or even death.



Typical style M-80



Typical Cherry Bomb

WARNING

Illegal explosive devices are not fireworks. These devices must be treated and handled as explosive devices as they are capable of causing severe injury or even death. Colors and sizes may vary from those listed above.

If you find someone in possession of, and/or selling illegal explosive devices IMMEDIATELY notify the New Hampshire State Police, Permits and Licensing Unit, or Explosives Unit, and the New Hampshire State Fire Marshal's Office.

PYROTECHNICS

Saf – C 6022

Saf – C 6022.01 Adoption of Pyrotechnics Code:

Pursuant to RSA 153:5 the commissioner hereby adopts as a rule NFPA 1126, “Standard for the Use of Pyrotechnics before a Proximate Audience”, 2001 edition.

Saf – C 6022.02 Compliance Required:

- (a) All persons using pyrotechnic special effects in the performing arts in conjunction with theatrical, musical, or any similar productions before a proximate audience, performers, or support personnel shall comply with all applicable provisions of NFPA 1126, 2001 edition.
- (b) For the purposes of this part “pyrotechnic special effects” means a special effect created through the use of pyrotechnic materials and devices.
- (c) For the purposes of this part “ pyrotechnic material” means a chemical mixture used in the entertainment industry to produce visible or audible effects by combustion, deflagration, or detonation. Such chemical mixtures predominately consist of solids capable of producing a controlled, self-sustaining, and self-contained exothermic chemical reaction that results in heat, gas, sound, light or a combination of these effects. The chemical reaction functions without external oxygen.

Saf – C 6022.03 Permit Required:

- (a) For the purposes of this section, “pyrotechnic operator” means the person actually in charge of creating the pyrotechnic special effects.
- (b) No person shall use any pyrotechnic special effects in the performing arts in conjunction with theatrical, musical, or any similar productions before a proximate audience, performers, or support personnel without having first obtained a permit from the state fire marshal.
- (c) Any person wishing to use pyrotechnic special effects in the performing arts in conjunction with theatrical, musical or any similar productions before a proximate audience, performers, or support personnel shall apply in writing to the state fire marshal on form DSFS # 79 and shall submit a plan, pursuant to (e) below to the state fire marshal.

Special Effects Permit Application Checklist

Complete applications with supporting documentation according to NFPA 1126, Standard for the Use of Pyrotechnics before a Proximate Audience and NFPA 160, Standard for Flame Effects before an Audience.

- 1) Complete the application from the Office of the State Fire Marshal (DSFS # 79)
- 2) Provide a copy of the operator's resume.
- 3) Provide copies of all licenses (ATF, local, state).
- 4) Provide a copy of proof of insurance certificate.
- 5) Provide copies of all Material Safety Data Sheets.
- 6) Provide a detailed diagram with the number and types of devices, and locations, with distances to audiences clearly marked.
- 7) Provide all flame-retardant certificates for scenery and curtains.
- 8) Provide a description of all storage and assembly areas on-site.
- 9) Provide a copy of the venue Place of Assembly Permit.
- 10) Provide a summary of all assistant's responsibilities.
- 11) Receipt and storage of all pyrotechnic material at the venue shall be by a licensed handler. (FAC 5008.03 and 5007.01)

Submit the COMPLETED application with all supporting documentation to the State Fire Marshal at least two (2) weeks in advance of the show.

Upon satisfactory review of all supporting documentation, plan for a complete demonstration on-site prior to the event.

NFPA 160, Standard for Flame Effects Before an Audience, and NFPA 1126, Use of Pyrotechnics before a Proximate Audience are adopted pursuant to NH RSA 153:5. Violations are punishable pursuant to NH RSA 153:24.

APPENDIX


A-1, Sample Class B Shooters Certificate of Competency

STATE OF NEW HAMPSHIRE DEPARTMENT OF SAFETY DIVISION OF STATE POLICE CERTIFICATE OF COMPETENCY FOR CLASS B FIREWORKS DISPLAY	
NAME	
CERTIFICATE NUMBER 3871589	
DOB	SEX M
HEIGHT 5' 4"	WEIGHT
HAIR BROWN	EYES BROWN
EXPIRES 12/19/06	
SIGNATURE	DIRECTOR OF STATE POLICE

A-2, Sample Retail License to Sell Permissible Fireworks

© 0053 440

The State of New Hampshire
Department of Safety
Division of State Police
Concord, NH 03305



**LICENSE FOR SALE OF
PERMISSIBLE FIREWORKS**

LICENSE NO. _____

This certifies that _____
of the City or Town of _____
in the State of _____
is hereby licensed to sell or market permissible fireworks doing business at

in accordance with the New Hampshire, RSA 160-C:3.

THIS LICENSE WILL EXPIRE ONE YEAR FROM DATE OF ISSUE.

Dated at Concord, this _____ day of _____, yr. _____

SIGNATURE OF LICENSEE

DIRECTOR OF STATE POLICE


DSSP190P - (Rev. 07/02)

MADE IN U.S.A.

A-3, Sample License to Display and Consumer Fireworks

© 0055 440

The State of New Hampshire
Department of Safety
Division of State Police
Concord, NH 03305



LICENSE FOR SALE OF FIREWORKS

LICENSE NO. _____

This certifies that _____
of the City or Town of _____
in the State of _____
is hereby licensed to sell or market fireworks doing business at _____

in accordance with the New Hampshire, RSA 160-B:6.

THIS LICENSE WILL EXPIRE ONE YEAR FROM DATE OF ISSUE.

Dated at Concord, this _____ day of _____, yr. _____

SIGNATURE OF LICENSEE

DIRECTOR OF STATE POLICE

DSSP190 - (Rev. 05/98)

LITHO IN U.S.A.



STATE OF NEW HAMPSHIRE
DEPARTMENT OF SAFETY
OFFICE OF THE STATE FIRE MARSHAL



APPLICATION FOR PYROTECHNIC SPECIAL EFFECTS PERMIT

Group or Organization: _____
Address: _____ Telephone () _____
_____ Fax () _____

Location of the production: _____ Date: _____
_____ Time: _____

Name of Pyrotechnic Production Operator: _____
Address: _____ Date of Birth: _____

Qualifications of Operator: _____

Years of Experience in using pyrotechnic special effects: _____ (Attach copies of any applicable licenses)

Name and Date of Birth of All Pyrotechnic Assistants:

A plan as required in Section Saf-C 6022.03(e) of the NH State Fire Code is attached to this application.

Date Signature of Applicant
This application is signed under penalty of unsworn falsification pursuant to RSA 641"3.

Special requirements established by the Local Fire Official:

Signature & Title of Local Fire Official or Designee

Date Print name and telephone number

Special requirements established by the State Fire Marshal:

The Applicant is authorized to operate the pyrotechnic special effects in accordance with the plan that has been submitted to the State Fire Marshal and subject to any special requirements noted above by the Local Fire Official and the State Fire Marshal.

Date _____ Approved _____ Permit # _____

A-5, REFERENCES AND SUGGESTED READINGS

New Hampshire Fire Laws Annotated – Lexis Publishing

New Hampshire State Fire Code, 2002 edition

NFPA – 1126, Standard for the Use of Pyrotechnics before a Proximate Audience,
National Fire Protection Association, Quincy, Massachusetts.

NFPA – 1123, Code for Fireworks Display, National Fire Protection Association,
Quincy, Massachusetts.

NFPA – 160, Standard for Flame Effects Before an Audience, National Fire Protection
Association, Quincy, Massachusetts.

New Hampshire State Police, Fireworks Rules and Regulations – Saf-C 5000